

L. E. LINDVAY, SR., ET AL.

IBLA 76-150

Decided January 8, 1976

Appeal from a decision of the Colorado State Office, Bureau of Land Management, rejecting simultaneous offers for acquired lands oil and gas lease C 22867.

Affirmed.

1. Oil and Gas Leases: Future and Fractional Interest Leases

In accordance with the policy established by 43 CFR 3130.4-4, the Department ordinarily issues oil and gas leases only to offerors who, upon issuance of the lease, will own at least 50 percent of the operating rights of a lease.

APPEARANCES: L. E. Lindvay, Sr., and L. E. Lindvay, Jr., pro se.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

L. E. Lindvay, Sr., and L. E. Lindvay, Jr., have appealed from two decisions dated August 21, 1975, in which the Colorado State Office, Bureau of Land Management, rejected their separate offers for acquired lands lease C 22867 because they had failed to submit evidence with their offers that would indicate that they would own 50 percent of the operating rights in the land upon lease issuance. 1/

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1/ Lucy M. Lindvay also sought to appeal the decisions rejecting the lease offers. She was also an applicant for Parcel No. 1, but her offer was not drawn. See 43 CFR 3112.2-1(a)(3). The regulations provide that "any party to a case who is adversely affected by a decision" may appeal. 43 CFR 4.410. We are unable to ascertain in what manner Lucy M. Lindvay can be adversely affected by a decision rejecting offers in which she has no apparent interest. Accordingly, her purported appeal is dismissed.

Appellants' lease offers were filed for Parcel No. 1 in the July 1975 simultaneous filing. The notice of available lands stated, in relation to Parcel No. 1, "[t]he United States owns only a 9/32% interest in the oil and gas on these lands. Evidence must be submitted with your offer to show that you would own 50% of the operating rights in the land upon lease issuance." The notice of available lands also made reference to 43 CFR 3130.4-4, which provides, in relevant part, that "[o]rdinarily the issuance of a lease to one who, upon such issuance, would own less than 50 percent of the operating rights in any such tract, will not be regarded as in the public interest, and an offer leading to such results will be rejected." Appellants' offers were drawn first and second, respectively. Each offer contained a statement that "I own no other interest in this parcel, governmental or otherwise, and agree to a 50% ownership." Each offer was rejected for failure to show that upon lease issuance 50 percent of the operating rights would be owned by the offeror.

[1] Appellants contend that the notice of available lands was ambiguous and further that it would be in the public interest to issue a lease to them, even though they would not possess 50 percent of the operating rights after lease issuance. As regards the alleged ambiguity, the notice of available lands clearly stated that applicants should show ownership of at least 50 percent of the operating rights upon lease issuance.

The reason for the above requirement has been discussed in a number of cases. Its purpose is to ensure Federal control over the operation of the lease. Jerry Chambers, 18 IBLA 88 (1974). The rule is subject to the exception that where the public interest dictates, a lease may issue to an applicant who will not own a majority of the operating interests. Thus, where drainage is occurring or where there exists a binding agreement between the prospective lessee and the holder of the non-Federal mineral interest a lease may properly issue. See Sun Oil Co., 67 I.D. 298 (1960); Solicitor's Opinion, M-36570 (August 10, 1959). It has not been shown, however, that such circumstances obtain in the instant case.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

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Douglas E. Henriques  
Administrative Judge

We concur:

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Frederick Fishman  
Administrative Judge

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Joseph W. Goss  
Administrative Judge

